

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

VS.

Timothy Williams,
Defendant.

2008 JAN -8 A 11:57

EDNA P. HACKETT
U.S. DISTRICT COURT
MOBILE DISTRICT ALA
:07CV-MEF-SRW

Case No.: 2:07CV-MEF-SRW

CR-05-216-MEF

2:07 cv 742 mEF

MOTION FOR EVIDENTIARY HEARING

COMES NOW, Defendant, Timothy Williams, pro se, pursuant to Rule 8, Rules Governing Section 2255 Proceedings in the United States District Courts, respectfully moves this Honorable Court to set for a hearing on the issues raised in the above-styled and captioned Motion for Post Conviction Relief heretofore filed pursuant to 28 U.S.C. § 2255, and says in support:

Section 2255 provides that "unless the motion and files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall...grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto." Fontaine v. United States, 411 U.S. 213, 215 (1973)(reversing summary dismissal and remanding for hearing because "motion and the files and records of the case did not conclusively show that the petitioner is entitled to no relief"); Sanders v. United States, 373 U.S. 1, 19-21 (1963); United States v. Bartholomew, 974 F.2d 39, 41 (5th Cir. 1992) (a motion brought under § 2255 can be denied without a hearing only if the motion, files and records of the case conclusively show that the prisoner is entitled to no relief); Anderson v. United States, 948 F.2d 704 (11th Cir. 1991)(Movant entitled to evidentiary hearing because "records does not conclusively show that the prisoner's contentions

are without merit").

In amplification of these proceedings, and the Rules governing same, the rules provide for an evidentiary hearing when the standards in Townsend v. Sain, 372 U.S. 293 (1963) require, or at least, permit one in the discretion of the court.

Wherefore, Defendant would respectfully request this Honorable Court to set this case for an evidentiary hearing consistent with the provisions of Rule 8, supra.

Respectfully Submitted,



Timothy Williams
F.C.I. Oakdale # 11778-002
P.O. Box 5000
Oakdale, LA. 71463-5000

Dated on this 19 Day of December, 2007.

-CERTIFICATE OF SERVICE-

I, hereby certify that a true and correct copy of the above motion and documents have been provided to the following parties via First Class Postage-Prepaid on December 19, 2007.

Clerk of the Court
Middle District of Alabama
1 Church Street, Ste. B-100
Montgomery, Alabama 36104

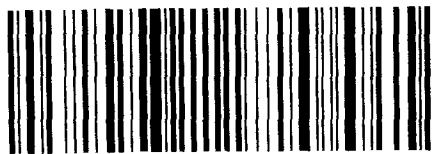
Susan Redman
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Respectfully Submitted,



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